

OPEN MEETING ITEM



0000020289

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: April 15, 2005

DOCKET NO: W-03512A-03-0279

TO ALL PARTIES:

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Opinion and Order on:

PINE WATER COMPANY (SUPPLEMENTAL OPINION AND ORDER ON NEW SERVICE CONNECTION MORATORIUM)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 25, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Open Meeting to be held on:

MAY 3 AND 4, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 PINE WATER COMPANY FOR A
10 DETERMINATION OF THE CURRENT FAIR
11 VALUE OF ITS UTILITY PLANT AND
12 PROPERTY, A RATE INCREASE AND FOR
13 APPROVAL TO INCUR LONG-TERM DEBT.

DOCKET NO. W-03512A-03-0279

DECISION NO. _____

SUPPLEMENTAL OPINION AND
ORDER ON NEW SERVICE
CONNECTION MORATORIUM

11 DATES OF HEARING: January 31, 2005 (Public Comment, Pine, Arizona);
February 14 and 25, 2005

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes

14 IN ATTENDANCE: William A. Mundell, Commissioner
15 Mike Gleason, Commissioner
Kristin K. Mayes, Commissioner

16 APPEARANCES: Mr. Jay Shapiro, FENNEMORE CRAIG, P.C., on
17 behalf of Pine Water Company;
18 Mr. Robert M. Cassaro, in propria persona;
19 Mr. John O. Breninger, in propria persona; and
20 Mr. Jason Gellman, Staff Attorney, Legal Division, on
21 behalf of the Utilities Division of the Arizona
Corporation Commission.

22 **BY THE COMMISSION:**

23 By Decision No. 67166, (August 10, 2004) the Arizona Corporation Commission
24 ("Commission") granted Pine Water Company ("Pine Water" or "Company") a permanent revenue
25 increase of approximately 11.8 percent pursuant to a settlement agreement entered into by Pine
26 Water, the Commission's Utilities Division Staff ("Staff"), and other intervenors¹. Decision No.

27 ¹ The other signatory intervenors were the Strawberry Hollow Domestic Water Improvement District ("District") and Mr.
28 John Breninger. The only other intervenor, Mr. Robert Cassaro, did not sign the settlement agreement. The District
withdrew its intervention in this subsequent phase of the proceeding.

1 67166 also directed Staff to prepare a Staff Report within three months addressing the issue of
 2 whether a moratorium on new water hook-ups should be reinstituted for Pine Water. Pine Water is
 3 currently subject to a limited moratorium pursuant to Decision No. 65435 (December 9, 2002),
 4 whereby the Company is limited to a maximum of 25 new service connections per month².

5 On November 19, 2004, Staff issued its Staff Report in accordance with Decision No. 67166.
 6 Staff recommended that Pine Water be prohibited from connecting any new customers due to Staff's
 7 determination that inadequate sources of water are available to serve additional customers. Staff also
 8 raised issues with respect to Pine Water's compliance with Arizona Department of Environmental
 9 Quality ("ADEQ") regulations.

10 A Procedural Order was issued on November 23, 2004 scheduling a procedural conference for
 11 December 1, 2004. The procedural conference was held as scheduled.

12 On December 2, 2004, a Procedural Order was issued scheduling a hearing for February 14,
 13 2005, directing the Company to publish notice of the hearing, and establishing other filing dates.

14 Pine Water's president, Robert Hardcastle filed Direct testimony on January 18, 2005.

15 On January 21, 2005, a Procedural Order was issued scheduling a public comment hearing for
 16 January 31, 2005 in Pine, Arizona. Pine Water was also directed to notify customers of the public
 17 comment hearing by newspaper publication and other means. The public comment hearing was
 18 conducted in Pine, as scheduled, on January 31, 2005.

19 On February 1, 2005, Staff engineer Marlin Scott filed Rebuttal testimony in support of
 20 Staff's recommendations.

21 On February 8, 2005, Mr. Hardcastle filed Surrebuttal testimony.

22 The evidentiary hearing commenced on February 14, 2005 and continued on February 25,
 23 2005.

24 * * * * *

25 Having considered the entire record herein and being fully advised in the premises, the
 26 Commission finds, concludes, and orders that:

27 ² The 25 service connection per month limit was originally established in Decision No. 64400 (January 31, 2002).
 28 Decision No. 65435 clarified that the 25 connection per month limit applies to the entirety of Pine Water's certificated service area.

FINDINGS OF FACT

1
2 1. Pine Water provides domestic water utility service to approximately 2,000 customers
3 in the Pine, Arizona area. Pine Water is owned by Brooke Utilities, Inc. ("Brooke Utilities") which,
4 along with its sister company, Brooke Water, LLC, own and operate 26 water systems serving a total
5 of approximately 8,000 customers in Arizona.

6 2. The territory served by Pine Water is subject to water shortages, where ground water
7 is the primary source of water. Groundwater in the Pine area typically flows through scattered rock
8 fractures and is heavily dependent on replenishment from rain and snow melt. As a result, Pine
9 Water's service area is susceptible to shortages in dry years, especially during summer months when
10 demand is highest.

11 3. The Pine Water system and its predecessors have been subject to new service
12 connection limits for a number of years. In 1989, due to historical water shortages in and around the
13 Pine area, the Commission ordered various moratoria on new service connections and main
14 extensions in the area previously served by E&R Water Company, Inc. ("E&R") and Williamson
15 Waterworks, Inc. ("Williamson").

16 4. In Decision No. 56539 (July 12, 1989), the Commission determined that new service
17 connections should be curtailed in E&R's service area due, in part, to a drought in the region and
18 lowering of the water table. In Decision No. 56654 (October 6, 1989), the Commission reaffirmed
19 the moratorium and also prohibited additional main extensions. The Commission directed that the
20 moratorium should remain in place until such time as E&R could demonstrate an ability to increase
21 water supplies by implementing conservation measures and by obtaining additional water resources.

22 5. In Decision No. 57047 (August 22, 1990), the Commission approved a modification to
23 the new service connection limit, allowing ten new connections per month under certain conditions.
24 However, in Decision No. 59753 (July 18, 1996), the Commission revised the moratorium, limiting
25 E&R to one single family residential connection per month on a first come first served basis. The
26 complete moratorium on new main extensions was reaffirmed in that Decision (Decision No. 59753,
27 at 12).

28 6. In August 1996, Brooke Utilities acquired E&R and Williamson and subsequently

1 reorganized seven separate water companies and systems into five subsidiaries, including Pine Water
2 and Strawberry Water Company ("Strawberry"). The reorganization was approved by the
3 Commission in Decision No. 60972 (June 19, 1998). The Pine Water system remained subject to the
4 one connection per month limit and by 2001 the waiting list for new connections had grown to 243
5 customers.

6 7. In September 2001, Pine Water filed an application seeking to increase the new
7 service connection limit to 25 per month. The Commission granted the Company's modification
8 request in Decision No. 64400 (January 31, 2002)³ based on Brooke Utilities' representations that it
9 had made significant improvements to the Pine Water system that would enable the Company to
10 provide adequate water service to new customers. Foremost on the list of improvements was Project
11 Magnolia, a pipeline interconnecting the Pine Water and Strawberry systems that is capable of
12 moving up to 700,000 gallons of water per day. The Company also claimed that water resources had
13 been enhanced as a result of repairs to system infrastructure, drilling of new wells in both Pine and
14 Strawberry, and construction of new storage capacity for both systems. *See*, Decision No. 64400, at
15 3-4.

16 8. As indicated above, in Decision No. 67166 (August 10, 2004) the Commission kept
17 the above-captioned docket open for the purpose of investigating whether a complete moratorium on
18 new service connections should be implemented for the Pine Water system. Staff filed its Staff
19 Report on November 19, 2004 recommending that "no new service connections be added to the Pine
20 Water system at this time" based on Staff's conclusion that insufficient quantities of water are
21 available for Pine Water to adequately serve its customers.

22 9. According to the Staff Report and Mr. Scott's testimony, Staff determined that Pine
23 Water's 19 well production sources are capable of serving a maximum of 555 average water
24 customers, based on Staff's analysis of customer usage from August 2002 to July 2004 (Ex. S-2, at
25 2)⁴. Mr. Scott testified that Staff considered the availability of water from the Strawberry system

26 ³ As amended by Decision No. 65435 (December 9, 2002) for purposes of clarification.

27 ⁴ To reach its conclusion, Staff evaluated the Company's Water Use Data Sheets for the peak month of June 2003
28 (6,400,669 gallons) and divided the usage by 30 days and the actual water users during the month (1,752) to obtain a
result of 121.78 gallons per day ("GPD") per user. This result was multiplied by a factor of 2.0 (due to the lack of peak
day water use data) to determine a value of 243.56 GPD per user, which equated to a value of 0.17 gallons per minute

1 through Project Magnolia, but concluded that Strawberry's 8 wells can produce less than 110 GPM
2 which, at continuous use at half capacity, would quickly be detrimental to water service in
3 Strawberry. Staff considers the Company's only other source of water, hauling water by truck, to be
4 an emergency measure that should not be considered for purposes of determining resource
5 availability (*Id.* at 3).

6 10. Through his testimony, Mr. Hardcastle agrees that Pine Water faces ongoing water
7 supply issues. However, he contends that adoption of Staff's recommendation will exacerbate the
8 situation if a similar limit on new connections is not also imposed on Gila County (Ex. P-1, at 2; Ex.
9 P-2, at 3). Mr. Hardcastle testified that a total moratorium for Pine Water will lead to other
10 customers outside the Commission's jurisdiction using the same water supplies currently used by
11 Pine Water. Mr. Hardcastle cites to the existence of a number of water districts that are not subject to
12 limits on connecting new customers and ongoing efforts by Gila County to develop the
13 Pine/Strawberry area despite the lack of adequate sources of water (Ex. P-1, at 3-5). He claims that
14 the Staff Report fails to recognize that a moratorium on Pine Water will not improve the water supply
15 situation because the County and developers will continue to circumvent the Commission's
16 jurisdiction by forming districts (*Id.* at 6).

17 11. The Company also contends that Staff's analysis does not take into account the limited
18 short-term nature of Pine Water's peak demand. As described above, Staff determined that Pine
19 Water's current water resources were capable of serving a maximum of 555 customers based on
20 usage data averaged over the June 2003 peak month. Despite Staff's calculation, Mr. Hardcastle
21 stated that Pine Water has been able to serve its entire base of nearly 2,000 active customer accounts
22 for several years by pumping water through the Project Magnolia pipeline and, when necessary, by
23 hauling water into the system. The Company claims that these measures are generally necessary only
24 to meet demand during summer weekends, especially holiday weekends.

25 12. At the January 31, 2005 public comment hearing in Pine, and at the beginning of the
26 evidentiary hearing, and number of Pine Water customers offered comments regarding the proposed

27
28 ("GPM") per user. Staff then divided the Company's available well production sources of 93.88 by 0.17 GPM per user to
reach its conclusion that Pine Water is capable of serving only 555 service connections during peak months (*Id.* at 2-3).

1 moratorium on new connections. Among the public comment witnesses was Harry Jones, who read
2 into the record a letter written by District 1 Supervisor for Gila County, Ms. Tommie Cline Martin
3 (Tr. 32-37). Supervisor Martin's letter raised a number of issues related to the proposed moratorium
4 and advocated using a cooperative approach between various stakeholders⁵ to attempt to develop a
5 long-term regional solution to the long-standing water shortage issues in northern Gila County. In
6 her letter, Supervisor Martin requested that the Commission limit Pine Water's new service
7 connection limit to two per month, for the next six months, in order to allow time for her to get up to
8 speed and assist in developing a solution for the water issues facing Gila County.

9 13. Although Pine Water opposes reducing the current 25 new meters per month limit, Mr.
10 Hardcastle testified that the Company was not opposed to Supervisor Martin's proposed two meter
11 per month limit as an interim measure (Tr. 193-194; 361). As a practical matter, the two connections
12 per month limitation would not cause an adverse effect on Pine Water's operations because the
13 Company added a total of only 22 new customers in 2004 (Tr. 194).

14 14. Staff continues to recommend that a total moratorium on new connections should be
15 imposed due to the lack of available water resources to Pine Water. However, at the hearing, Staff
16 witness Steve Olea testified that it may be appropriate to phase-in the moratorium along the lines
17 suggested in Supervisor Martin's letter (Tr. 316).

18 **Blue Ridge Reservoir**

19 15. During public comments and the evidentiary hearing, the possibility that Pine Water
20 could obtain water from the Blue Ridge Reservoir was a frequent topic for discussion. The Blue
21 Ridge Reservoir is a water reservoir located approximately 25 miles north of Pine in Coconino
22 County, near an area called Clint's Well. Mr. Hardcastle stated that the water rights to the reservoir
23 were formerly owned by Phelps Dodge but, through a recent transaction, the Phelps Dodge water
24 rights will be transferred ultimately to the Bureau of Reclamation. According to Mr. Hardcastle, the
25 agreement provides that up to 3,500 acre feet per year of water from the Blue Ridge Reservoir would
26 be available for Gila County, of which the first 3,000 acre feet would be allocated to the City of
27

28 ⁵ Supervisor Martin stated that she intends to bring together representatives of Pine Water, various area water districts, Gila County staff members, real estate developers, landowners, and other interested citizens.

1 Payson, and the other 500 acre feet, subject to availability, would be allocated to northern Gila
2 County, including the Pine-Strawberry area (Tr. 108). Mr. Hardcastle testified that preliminary
3 estimates of the cost of constructing pipelines to access the Blue Ridge water are \$30 million to \$40
4 million for Payson and \$10 million to \$15 million for the Pine area. Due to the projected cost of
5 building such a pipeline, with no assurance that water would be available within any given year, Mr.
6 Hardcastle stated that a Blue Ridge Reservoir project as a source of water for Pine Water "just
7 doesn't seem to make a lot of sense" (Tr. 111).

8 **Additional Storage**

9 16. Another potential solution raised at the hearing was the issue of whether it would be
10 feasible for Pine Water to build additional storage facilities. The possibilities of mining water during
11 winter months for use in the summer, as well as the use of additional storage to mitigate summer
12 weekend peaks, were discussed by various customers. Pine Water currently has approximately
13 900,000 gallons of storage capacity. Mr. Hardcastle testified that adding an additional 1 million
14 gallons of storage would cost approximately \$1 million. In response to questions regarding the
15 storage issue, Mr. Hardcastle testified that there is likely not a sufficient incremental amount of
16 production capacity available during off-peak periods that would enable the Company to build up
17 sufficient storage capacity to avert weekend peak shortages. With respect to winter storage, Mr.
18 Hardcastle claims that it is unclear whether "over-mining" in winter months would have a detrimental
19 effect on the fragile sources available during summer months (Tr. 129-130). He stated that three or
20 four years ago the Company explored building a large above-ground storage reservoir but determined
21 that such a facility was not economically feasible. According to Mr. Hardcastle, the cost of a 25
22 million gallon winter storage reservoir would range from \$750,000 up to \$7 million depending on a
23 number of factors, including the size and location of the property used; water treatment costs; cost of
24 a delivery system to the reservoir; and whether the facility was lined and what type of lining is used
25 (e.g., unlined, concrete lined, balloon storage vessel) (Tr. 130-133).

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Additional Wells

1 17. During public comments, Mr. Thomas Filesi claimed that various residents of the
2 Portals III community, where he is a part-time resident, have successfully drilled wells with
3 production of approximately 30 to 35 GPM (Tr. 21). Mr. Filesi contends that the success in finding
4 water in Portals III undermines the Company's claim that additional sources of water are not
5 available in the Pine area. At the hearing, Commissioner Mundell requested that Mr. Filesi provide
6 evidence substantiating his claims. No additional documentation was received in the record on this
7 issue and Pine Water maintains that it has repeatedly been unsuccessful in drilling wells in both the
8 Pine and Strawberry areas (Tr. 143-144).

New Improvement Districts

10 18. At the hearing, Staff introduced a letter dated April 22, 2003 from ADEQ to Loren
11 Peterson of an improvement district called Strawberry Hollow informing Mr. Peterson that although
12 Strawberry Hollow had previously been issued an Approval to Construct ("ATC") and an Approval
13 of Construction ("AOC"), Strawberry Hollow "does not meet the requirements to begin operating
14 pursuant to R18-4-602.B of the Arizona Administrative Code ("A.A.C."). The letter advised
15 Strawberry Hollow that it does not have a 100-year drinking water certification from the Arizona
16 Department of Water Resources ("ADWR"), and therefore could not operate as a regulated public
17 water system. The letter also indicated that Strawberry Hollow does not meet the requirements of a
18 "community water system" which limits service to a "public water system that serves 15 or more
19 service connections used by year-round residents or that serves 25 or more year-round residents" (Ex.
20 S-3; Tr. 316, 322-323). Staff raised this point to suggest that it is not likely that a significant number
21 of new districts will be formed in the near future. According to Staff, Pine Water's concerns about
22 the formation of new improvement districts are mitigated by the difficulty improvement districts
23 would have in meeting the 100-year supply criteria needed to qualify as a public water system (Tr.
24 262-264).

Other requested data

26 19. Commissioner Mundell requested Pine Water to provide the name of the land owner
27 and parcel number of property for which Pine Water previously had entered into an agreement to drill
28

1 a well. According to Mr. Hardcastle, the property was subsequently sold and the new owner is not
2 interested in permitting access to the Company. Mr. Hardcastle did not believe there was an
3 assignment to the new owner of the Company's right to drill a well on the property (Tr. 215). In
4 response to Commissioner Mundell's request, Pine Water submitted a late-filed exhibit on March 15,
5 2005 and attached the previous owners' recorded deed as well as a map of the subject property (Late-
6 Filed Exhibit A). However, the exhibit did not include documentation showing whether there was an
7 assignment of Pine Water's right to access the property for purposes of drilling a well.

8 20. During the hearing, Mr. Hardcastle conceded that there is an emergency situation
9 generally with respect to the water supply in the Pine-Strawberry area. However, he disagreed that
10 Staff's proposed moratorium on Pine Water was an appropriate remedy and indicated that the
11 Company would not face a real crisis in its ability to serve customers for another six to eight years
12 (Tr. 218-220). Commissioner Mayes requested that the Company provide internal projections that
13 support its claim that no crisis would exist for a 6-8 year period at current growth levels and Mr.
14 Hardcastle agreed to provide that information (Tr. 220-221). In its March 15, 2005 late-filed exhibit,
15 the Company submitted an analysis performed in 2001 that appears to be a projection of customer
16 growth and capacity requirements over a number of years (Late-Filed Exhibit B).

17 21. Commissioner Mayes also requested that the Company provide actual water loss data
18 for 2004 to support its claim that the annualized water loss rate is 10 percent (Tr. 223). In its March
19 15, 2005 late-filed exhibit, the Company attached its water use data for 2004 and calculated a water
20 loss rate of 10.54 percent (Late-Filed Exhibit C).

21 **ADEQ Compliance Issues**

22 22. In the Staff Report, Staff cited several deficiencies it had discovered with respect to
23 the interconnected Pine Water-Strawberry Water system's compliance with ADEQ requirements.
24 Staff indicated that Pine Water was deficient in the following respects: failure to submit an accurate
25 drawing of the system pursuant to a Consent Order between ADEQ and E&R Water; existence of a
26 Notice of Violation ("NOV") for operating two wells (the Blooms and Weeks wells) without an ATC
27 or AOC and failure to properly maintain certain specified facilities; NOV for the interconnected
28

1 Strawberry system for failure to provide a consumer confidence report⁶; and an ADEQ report of
2 approximately 20 plant facility deficiencies that need to be corrected (Ex. S-1, at 2). In its March 17,
3 2005 late-filed exhibit, Staff attached an ADEQ Drinking Water Compliance Status Report for the
4 Pine system which indicates that the system "is currently delivering water that meets water quality
5 standards...."

6 23. In his Direct testimony, Mr. Hardcastle testified that Pine Water was not aware of the
7 1994 Consent Order between ADEQ and E&R Water when Brooke Utilities acquired E&R. He
8 stated that preparation of an as-built set of engineering drawings, that was agreed to be produced by
9 E&R as part of the Consent Order, would likely cost the Company in excess of \$100,000. Mr.
10 Hardcastle stated that such an expenditure of funds would not be a prudent investment given the
11 ongoing water supply issues facing Pine Water. He said the Company would attempt to resolve the
12 issue with ADEQ (Ex. A-1, at 9).

13 24. With respect to the Blooms and Weeks wells, Mr. Hardcastle indicated that Brooke
14 Utilities owns and operates the wells pursuant to water sharing agreements with the owners of the
15 land where the wells are located. He stated that when the wells were drilled in 1998, Brooke Utilities
16 did not believe that an ATC or AOC were required because the cost of each well was under \$50,000.
17 Mr. Hardcastle testified that the other deficiencies associated with those wells are being promptly
18 addressed by the Company (*Id.* at 10-11).

19 25. Regarding the other plant facility deficiencies identified by ADEQ, Mr. Hardcastle
20 testified that Pine Water has not been found in violation with respect to those items and ADEQ has
21 not set forth any obligations or timelines for repair of the deficiencies. He stated the Company is in
22 the process of replacing three concrete well slabs and fences around the well sites, and he expects that
23 all of the deficiencies "will be corrected promptly and certainly by the next regularly scheduled field
24 inspection" (*Id.* at 11).

25 ...

26 ...

27

28 ⁶ The Company attached to Mr. Hardcastle's testimony a letter from ADEQ, dated January 12, 2005, stating that ADEQ had closed the NOV because the Company had previously sent the required documentation (Ex. P-1, at 8-9; Ex. A).

1 **Conclusion**

2 26. We believe it is appropriate to place a two new residential meters per month limit on
3 Pine Water on an interim basis as a means of enabling all affected stakeholders to discuss possible
4 long-term solutions to the chronic water shortage issues that have plagued the Pine area for a number
5 of years. However, a total moratorium on main extension agreements and commercial connections
6 shall continue to be in effect in order to mitigate the potential detrimental effects associated with
7 adding a significant number of customers and/or high volume users.

8 27. We expect representatives of Pine Water and the Commission's Staff to be actively
9 involved in analyzing and discussing all feasible long-term permanent⁷ solutions to the water
10 shortage issues in Pine. Consideration should be given to, at a minimum, the following: growth
11 limits on Gila County development outside the Pine Water service area; additional well sources;
12 additional storage capacity; Blue Ridge Reservoir pipeline; CAP water trade with Salt River Project
13 ("SRP") for Fossil Creek water; deep drilling in the Coconino sandstone; and any other permanent
14 solutions that may be suggested or developed by the stakeholders and government entities. Such
15 discussions should attempt to include representatives of all affected entities and stakeholders,
16 including ADEQ, ADWR, SRP, Payson, and Gila County. The participation of Gila County in this
17 effort is especially critical because restrictions placed exclusively on Pine Water will not resolve the
18 long-standing chronic water shortage issues faced in northern Gila County.

19 28. Staff and the Company should submit jointly or separately, by no later than October
20 31, 2005, a report with recommendations regarding specific long-term solutions to the Pine Water
21 shortage issues. We also direct the parties to work with Gila County Supervisor Martin, and other
22 county officials, to ensure that Gila County's input is received and considered in any
23 recommendations that are proposed in the forthcoming analysis and report.

24 29. The two new residential connections per month limit for Pine Water shall be
25 implemented on a first-come, first-served basis, with no carryover from month-to-month⁸, and shall
26

27 ⁷ Staff witness Steve Olea defined a "permanent" solution as a "permanent, continuous source of water that can
adequately supply not only the existing customers, but growth" (Tr. 309).

28 ⁸ The prohibition against a month-to-month carryover will limit Pine Water to connecting no more than two new
customers in any given month, and may require the Company to develop a waiting list to ensure that new connections are

1 remain in effect until further Order of the Commission.

2 30. Regarding the compliance issues raised by Staff, it appears from Staff's latest filing
3 that Pine Water is currently in compliance with ADEQ drinking water requirements and, as such,
4 there do not appear to be any immediate health and safety issues raised by Pine Water's ongoing
5 operations. However, there are several matters identified by Staff that require Pine Water's attention
6 and we will therefore direct the Company to immediately contact ADEQ in order to resolve the issues
7 discussed above. Specifically, Pine Water shall seek to resolve the need for as-built engineering
8 drawings; the existing NOV for the Blooms and Weeks wells; and repair of any outstanding plant
9 facilities deficiencies. Pine Water shall file within 90 days of the effective date of this Decision a
10 report discussing how these matters have been resolved and what efforts the Company has taken to
11 ensure that similar deficiencies are not likely to reoccur.

12 CONCLUSIONS OF LAW

13 1. Pine Water is a public service corporation within the meaning of Article XV of the
14 Arizona Constitution and A.R.S. §§40-201, 40-203, and 40-252.

15 2. The Commission has jurisdiction over the Company and of the subject matter of the
16 application.

17 3. Modification of the 25 new service connections per month previously imposed on Pine
18 Water pursuant to Decision No. 64400, as modified by Decision No. 65435, is reasonable and in the
19 public interest.

20 4. Staff's recommendation for a complete moratorium on new connections should be
21 modified to allow up to two new residential service connections per month, on a first-come, first-
22 served basis, with no carryover from month-to-month.

23 ORDER

24 IT IS THEREFORE ORDERED that modification of the 25 new service connections per
25 month previously imposed on Pine Water Company pursuant to Decision No. 64400, as modified by
26 Decision No. 65435, is reasonable and in the public interest.

27
28 _____ established on a first-come, first-served basis. The "no carryover" policy is currently in effect for the 25 connections per
month limit pursuant to Decision No. 64400 (January 31, 2002).

1 IT IS FURTHER ORDERED that Pine Water Company shall be limited to two new
2 residential service connections per month, implemented on a first-come, first-served basis, with no
3 carryover from month-to-month, and such limitation shall remain in effect until further Order of the
4 Commission.

5 IT IS FURTHER ORDERED that a total moratorium on main extension agreements and
6 commercial connections shall continue to be in effect in order to mitigate the potential detrimental
7 effects associated with adding a significant number of customers and/or high volume users.

8 IT IS FURTHER ORDERED that representatives of Pine Water Company and Staff shall
9 commence an analysis and discussions with all affected entities and stakeholders, including ADEQ,
10 ADWR, SRP, Payson, and Gila County, in order to develop a long-term permanent solution to the
11 chronic water shortage issues in the Pine, Arizona area.

12 IT IS FURTHER ORDERED that, in the analysis and discussions undertaken by the
13 participating entities, consideration should be given to, at a minimum, the following: growth limits on
14 Gila County development outside the Pine Water service area; additional well sources; additional
15 storage capacity; Blue Ridge Reservoir pipeline; CAP water trade with SRP for Fossil Creek water;
16 deep drilling in the Coconino sandstone; and any other permanent solutions that may be suggested or
17 developed by the stakeholders and government entities.

18 IT IS FURTHER ORDERED that Pine Water Company shall immediately contact ADEQ in
19 order to resolve issues related to: the need for as-built engineering drawings; the existing NOV for
20 the Blooms and Weeks wells; and repair of any outstanding plant facility deficiencies.

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1 IT IS FURTHER ORDERED that Pine Water Company shall file within 90 days of the
2 effective date of this Decision a report discussing how these matters have been resolved and what
3 efforts the Company has taken to ensure that similar deficiencies are not likely to reoccur.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7
8 CHAIRMAN

COMMISSIONER

COMMISSIONER

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10
11 COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Secretary of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this ____ day of _____, 2005.

17 BRIAN C. McNEIL
EXECUTIVE SECRETARY

18
19 DISSENT _____

20
21
22 DISSENT _____

23
24
25 DDN:mj

1 SERVICE LIST FOR: PINE WATER COMPANY

2 DOCKET NO.: W-03512A-03-0279

3

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